



General Assembly

Amendment

January Session, 2003

LCO No. 7637

HB0657907637SD0

Offered by:

SEN. FINCH, 22nd Dist.

To: Subst. House Bill No. 6579

File No. 773

Cal. No. 509

**"AN ACT CONCERNING THE INSTALLATION OF FIRE
SPRINKLER SYSTEMS IN NURSING HOMES AND NEW HOME
CONSTRUCTION."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 36a-485 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2003*):

5 As used in this section and sections 36a-486 to 36a-498, inclusive,
6 unless the context otherwise requires:

7 (1) "Advance fee" means any consideration paid or given, directly or
8 indirectly, to a mortgage lender, first mortgage broker, [or] originator
9 or agent originator required to be licensed or registered pursuant to
10 [sections 36a-485 to 36a-498, inclusive,] section 36a-489, as amended by
11 this act, prior to the closing of a first mortgage loan to any person,
12 including, but not limited to, loan fees, points, broker's fees or
13 commissions, transaction fees or similar prepaid finance charges;

14 (2) "Advertise" or "advertisement" means the use of media, mail,
15 computer, telephone, personal contact or any other means to offer the
16 opportunity for a first mortgage loan;

17 (3) "Agent originator" means an individual licensed as an insurance
18 producer under chapter 701a who is retained by not more than one
19 insurer affiliated mortgage lender for, or with the expectation of, a fee,
20 commission or other valuable consideration, to arrange, solicit or find
21 first mortgage loan applicants for such insurer affiliated mortgage
22 lender, from a location in this state owned or leased and occupied by
23 such individual, provided such individual is appointed as an agent
24 under section 38a-702m exclusively by one or more affiliates of such
25 insurer affiliated mortgage lender;

26 [(3)] (4) "First mortgage broker" means a person who, for a fee,
27 commission or other valuable consideration, directly or indirectly,
28 negotiates, solicits, arranges, places or finds a first mortgage loan that
29 is to be made by a mortgage lender, whether or not the mortgage
30 lender is required to be licensed under [sections 36a-485 to 36a-498,
31 inclusive] section 36a-489, as amended by this act, but does not include
32 an originator or agent originator;

33 [(4)] (5) "First mortgage correspondent lender" means a person
34 engaged in the business of making first mortgage loans in such
35 person's own name where the loans are not held by such person for
36 more than ninety days and are funded by another person through a
37 warehouse agreement, table funding agreement or similar agreement;

38 [(5)] (6) "First mortgage lender" means a person engaged in the
39 business of making first mortgage loans: (A) In such person's own
40 name utilizing such person's own funds, or (B) by funding loans
41 through a table funding agreement;

42 [(6)] (7) "First mortgage loan" means a loan or an extension of credit,
43 including, but not limited to, an extension of credit pursuant to a
44 contract or an assigned contract for the sale of goods or services, made
45 to a natural person, the proceeds of which are to be used primarily for

46 personal, family or household purposes, and which is secured by a
47 first mortgage upon any interest in one-to-four-family residential
48 owner-occupied real property located in this state which is not subject
49 to any prior mortgages and includes the renewal or refinancing of an
50 existing first mortgage loan;

51 (8) "Insurer affiliated mortgage lender" means a mortgage lender
52 exempt from licensing under section 36a-487 that is an affiliate of an
53 insurer;

54 [(7)] (9) "Mortgage lender" means a first mortgage lender, a first
55 mortgage correspondent lender, or both;

56 [(8)] (10) "Originator" means an individual who is employed or
57 retained by a mortgage lender or first mortgage broker that is required
58 to be licensed under [sections 36a-485 to 36a-498, inclusive] section
59 36a-489, as amended by this act, for, or with the expectation of, a fee,
60 commission or other valuable consideration, to negotiate, solicit,
61 arrange or find a first mortgage loan. "Originator" does not include an
62 officer, if the licensee is a corporation; a general partner, if the licensee
63 is a partnership; a member, if the licensee is a limited liability
64 company; or a sole proprietor, if the licensee is a sole proprietorship;

65 [(9)] (11) "Residential property" means improved real property used
66 or occupied, or intended to be used or occupied, for residential
67 purposes;

68 [(10)] (12) "Simulated check" means a document that imitates or
69 resembles a check but is not a negotiable instrument;

70 [(11)] (13) "Table funding agreement" means an agreement wherein
71 a person agrees to fund mortgage loans to be made in another person's
72 name and to purchase such loans after they are made; and

73 [(12)] (14) "Warehouse agreement" means an agreement to provide
74 credit to a person to enable the person to have funds to make mortgage
75 loans and hold such loans pending sale to other persons.

76 Sec. 502. Subsection (b) of section 36a-486 of the general statutes is
77 repealed and the following is substituted in lieu thereof (*Effective*
78 *October 1, 2003*):

79 (b) No licensee shall employ or retain an originator without first
80 registering such originator under sections [36a-485 to 36a-498,
81 inclusive] section 36a-489, as amended by this act, provided such
82 registration shall not be required for any originator who is registered
83 by such licensee under sections 36a-510 to 36a-524, inclusive. No
84 insurer affiliated mortgage lender shall retain an agent originator
85 without first registering such agent originator under section 36a-489, as
86 amended by this act, provided such registration shall not be required
87 for any agent originator who is registered by such insurer affiliated
88 mortgage lender under section 36a-513. No individual may act as an
89 originator or agent originator without being registered, or act as an
90 originator or agent originator, as defined in sections 36a-485 and 36a-
91 510, for more than one person. The registration of an originator is not
92 effective during any period when such originator is not associated
93 with a licensee, and the registration of an agent originator is not
94 effective during any period when such agent originator is not retained
95 by an insurer affiliated mortgage lender. Both the originator and the
96 licensee shall promptly notify the commissioner, in writing, of the
97 termination of employment or services of an originator, and both the
98 agent originator and the insurer affiliated mortgage lender shall
99 promptly notify the commissioner, in writing, of the termination of
100 services of an agent originator.

101 Sec. 503. Section 36a-488 of the general statutes is amended by
102 adding subsection (d) as follows (*Effective October 1, 2003*):

103 (NEW) (d) An application for registration of an agent originator or
104 renewal of such registration shall be made by the retaining insurer
105 affiliated mortgage lender on a form provided by the commissioner.

106 Sec. 504. Section 36a-489 of the general statutes is repealed and the
107 following is substituted in lieu thereof (*Effective October 1, 2003*):

108 (a) If the commissioner finds, upon the filing of an application for a
109 license, that the applicant meets the requirements of subsection (a) of
110 section 36a-488, and that the financial responsibility, character,
111 reputation, integrity and general fitness of the applicant and of the
112 partners thereof if the applicant is a partnership, of the members if the
113 applicant is a limited liability company or association, and of the
114 officers, directors and principal employees if the applicant is a
115 corporation, are such as to warrant belief that the business will be
116 operated soundly and efficiently, in the public interest and consistent
117 with the purposes of sections 36a-485 to 36a-498, inclusive, the
118 commissioner may thereupon issue the applicant the license. If the
119 commissioner fails to make such findings, or if the commissioner finds
120 that the applicant has made a material misstatement in the application,
121 the commissioner shall not issue a license, and shall notify the
122 applicant of the denial and the reasons for such denial. Any denial of
123 an application by the commissioner shall, when applicable, be subject
124 to the provisions of section 46a-80.

125 (b) Upon the filing of an application for registration, the
126 commissioner shall register the originator or agent originator named in
127 the application unless the commissioner finds that the applicant has
128 made a material misstatement in the application or that the financial
129 responsibility, character, reputation, integrity and general fitness of the
130 originator, agent originator or retaining insurer affiliated mortgage
131 lender named in the application, are not such as to warrant belief that
132 granting such registration would be in the public interest and
133 consistent with the purposes of sections 36a-485 to 36a-498, inclusive. If
134 the commissioner denies registration, the commissioner shall notify the
135 originator or agent originator named in the application and the
136 applicant filing the application of the denial and the reasons for such
137 denial. Any denial of an application by the commissioner shall, when
138 applicable, be subject to the provisions of section 46a-80. [A]

139 (c) Each license or registration shall remain in force and effect until
140 it has been surrendered, revoked, suspended or expires in accordance
141 with the provisions of sections 36a-485 to 36a-498, inclusive.

142 Sec. 505. Section 36a-490 of the general statutes is repealed and the
143 following is substituted in lieu thereof (*Effective October 1, 2003*):

144 (a) Each license shall state the location at which the business is to be
145 conducted and shall state fully the name of the licensee. If the licensee
146 desires to make first mortgage loans in more than one location or to act
147 as a first mortgage broker in more than one location, the licensee shall
148 procure a license for each location where the business is to be
149 conducted. Each license shall be maintained at the location for which
150 the license was issued and shall be available for public inspection.
151 Such license shall not be transferable or assignable. Any change of
152 location of a licensee shall require only prior written notice to the
153 commissioner. No licensee shall use any name other than the name
154 stated on the license issued by the commissioner.

155 [(b)] The licensee shall promptly notify the commissioner, in
156 writing, of any change in the information provided in the application
157 for license or most recent renewal of such license.

158 (b) Evidence of registration shall be maintained at the location for
159 which the registration was issued and shall be available for public
160 inspection. Such registration shall not be transferable or assignable.
161 Any change of location of an agent originator registrant shall require
162 only prior written notice to the commissioner. No registrant shall use
163 any name other than the name stated on the registration issued by the
164 commissioner. Each applicant shall promptly notify the commissioner,
165 in writing, of any change in the information provided in the
166 application for registration or most recent renewal of such registration.

167 [(c) Each license shall remain in force and effect until it has been
168 surrendered, revoked, suspended or expires in accordance with the
169 provisions of sections 36a-485 to 36a-498, inclusive.]

170 Sec. 506. Subsection (a) of section 36a-491 of the general statutes is
171 repealed and the following is substituted in lieu thereof (*Effective*
172 *October 1, 2003*):

173 (a)(1) Each applicant for a first mortgage lender license or a first
174 mortgage correspondent lender license shall, at the time of making
175 such application, pay to the commissioner a license fee of eight
176 hundred dollars, provided if such application is filed not earlier than
177 one year before the date such license will expire, the applicant shall
178 pay to the commissioner a license fee of four hundred dollars. Each
179 applicant for a first mortgage broker license shall, at the time of
180 making such application, pay to the commissioner a license fee of four
181 hundred dollars, provided if such application is filed not earlier than
182 one year before the date such license will expire, the applicant shall
183 pay to the commissioner a license fee of two hundred dollars. Each
184 license issued pursuant to this section shall expire at the close of
185 business on September thirtieth of the even-numbered year following
186 its issuance unless such license is renewed. Such licensee shall, on or
187 before September first of the year in which the license expires, pay to
188 the commissioner the appropriate license fee as provided in this
189 section for the succeeding two years, commencing October first,
190 together with such renewal application as the commissioner may
191 require. Any renewal application filed with the commissioner after
192 September first shall be accompanied by a one-hundred-dollar late fee.
193 Whenever an application for a license, other than a renewal
194 application, is filed under [sections 36a-485 to 36a-498, inclusive]
195 section 36a-489, as amended by this act, by any person who was a
196 licensee under said [sections] section and whose license expired less
197 than sixty days prior to the date such application was filed, such
198 application shall be accompanied by a one-hundred-dollar processing
199 fee in addition to the application fee.

200 (2) [A licensee filing an] An application for registration of an
201 originator shall [, at the time of making such application, pay to the
202 commissioner] include a registration fee of one hundred dollars for
203 such originator, provided if such application is filed not earlier than
204 one year before the date the license of the applicant will expire, the
205 [applicant shall pay to the commissioner a] registration fee [of] shall be
206 fifty dollars for such originator. Each registration shall expire at such

207 time as the licensee's license expires unless such registration is
208 renewed. Such licensee shall file an application for renewal of the
209 registration, [and pay to the commissioner] which shall include the
210 appropriate registration fee as provided in this [subsection]
211 subdivision for the succeeding two years, commencing October first.

212 (3) An application for registration of an agent originator shall
213 include a registration fee of one hundred dollars for such agent
214 originator, provided if such application is filed not earlier than one
215 year before the date the registration of the agent originator will expire,
216 the registration fee shall be fifty dollars for such agent originator. Each
217 registration issued pursuant to this subdivision shall expire at the close
218 of business on September 30 of the even-numbered year following its
219 issuance unless such registration is renewed. The insurer affiliated
220 mortgage lender shall file an application for renewal of the
221 registration, which shall include the appropriate registration fee as
222 provided in this subdivision for the succeeding two years,
223 commencing October first.

224 Sec. 507. Section 36a-493 of the general statutes is amended by
225 adding subsection (e) as follows (*Effective October 1, 2003*):

226 (NEW) (e) Each agent originator registrant shall maintain adequate
227 records of each loan transaction at the location named in the
228 registration, or shall make such records available at such location not
229 later than five business days after requested by the commissioner to do
230 so. Such records shall provide the following information: (1) A copy
231 of any disclosures required under part III of chapter 669; (2) the
232 purpose for which the loan was made; and (3) an exact copy of the note
233 and mortgage deed. The registrant shall retain such records for not
234 less than two years from the date of the transaction or such longer
235 period as may be required by any other provision of law.

236 Sec. 508. Subdivision (2) of subsection (a) of section 36a-494 of the
237 general statutes is repealed and the following is substituted in lieu
238 thereof (*Effective October 1, 2003*):

239 (2) The commissioner may suspend, revoke or refuse to renew any
240 registration of an originator or agent originator, in accordance with the
241 provisions of section 36a-51, for any reason which would be sufficient
242 grounds for the commissioner to deny an application for a registration
243 under [sections 36a-485 to 36a-498, inclusive] section 36a-489, as
244 amended by this act, or if the commissioner finds that the registrant
245 has committed any fraud, misappropriated funds or misrepresented
246 any of the material particulars of any first mortgage loan transaction.

247 Sec. 509. Section 36a-496 of the general statutes is repealed and the
248 following is substituted in lieu thereof (*Effective October 1, 2003*):

249 No person engaged in the business of making first mortgage loans
250 in this state, whether licensed in accordance with the provisions of
251 [sections 36a-485 to 36a-498, inclusive] section 36a-489, as amended by
252 this act, or exempt from licensing, shall accept applications or referral
253 of applicants from, or pay a fee to, any first mortgage broker, [or]
254 originator or agent originator who is required to be licensed or
255 registered under said [sections] sections but is not licensed or
256 registered to act as such by the commissioner, if the mortgage lender
257 has actual knowledge that the first mortgage broker, [or] originator or
258 agent originator is not licensed or registered by the commissioner.

259 Sec. 510. Section 36a-497 of the general statutes is repealed and the
260 following is substituted in lieu thereof (*Effective October 1, 2003*):

261 (a)(1) No person licensed pursuant to section 36a-489, as amended
262 by this act, shall [:

263 (1) Advertise] advertise or cause to be advertised in this state, any
264 first mortgage loan in which such person intends to act only as a first
265 mortgage broker unless the advertisement includes the following
266 statement, clearly and conspicuously expressed: BROKER ONLY, NOT
267 A LENDER. [; or]

268 (2) No agent originator registrant shall advertise or cause to be
269 advertised in this state any first mortgage loan unless the

270 advertisement clearly and conspicuously identifies the retaining
271 insurer affiliated mortgage lender and discloses such registrant's
272 relationship with such insurer affiliated mortgage lender.

273 [(2) In] (b) No person licensed pursuant to section 36a-489, as
274 amended by this act, shall, in connection with an advertisement in this
275 state, use (A) a simulated check; (B) a comparison between the loan
276 payments under the first mortgage loan offered and the loan payments
277 under a hypothetical loan or extension of credit, unless the
278 advertisement includes, with respect to both the hypothetical loan or
279 extension of credit and the first mortgage loan being offered, the
280 interest rate, the loan balance, the total amount of finance charges, the
281 total number of payments and the monthly payment amount that
282 would be required to pay off the outstanding loan balance shown; (C)
283 representations such as "verified as eligible", "eligible", "preapproved",
284 "prequalified" or similar words or phrases, without also disclosing, in
285 immediate proximity to and in similar size print, language which sets
286 forth prerequisites to qualify for the first mortgage loan, including, but
287 not limited to, income verification, credit check, and property
288 appraisal or evaluation; or (D) any words or symbols in the
289 advertisement or on the envelope containing the advertisement that
290 give the appearance that the mailing was sent by a government
291 agency.

292 Sec. 511. Subsection (b) of section 36a-498 of the general statutes is
293 repealed and the following is substituted in lieu thereof (*Effective*
294 *October 1, 2003*):

295 (b) No originator [required to be] registered pursuant to [sections
296 36a-485 to 36a-498, inclusive] section 36a-489, as amended by this act,
297 shall accept payment of any advance fee except an advance fee on
298 behalf of a licensee, and no agent originator registered pursuant
299 section 36a-489, as amended by this act, shall accept payment of any
300 advance fee except an advance fee on behalf of the insurer affiliated
301 mortgage lender by which it is retained. Nothing in this subsection
302 shall be construed as prohibiting the licensee from paying an

303 originator all or part of an advance fee, provided such advance fee
304 paid is not refundable under this section."